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U.S. Department of Homeland Security
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Washington, DC 20529

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: MAY 19 2004

IN RE: Applicant: [redacted]

APPLICATION: Application for Status as a Temporary Resident pursuant to Section 210 of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1160

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the service center that processed your case. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application for temporary resident status as a special agricultural worker was denied by the Director, Western Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because the applicant failed to establish the performance of at least 90 man-days of qualifying agricultural employment during the eligibility period. This decision was based on adverse information acquired by the Immigration and Naturalization Service or the Service (now, Citizenship and Immigration Services, or CIS) relating to the applicant's claim of employment for [redacted] at Christopher Ranch.

On appeal, the applicant reaffirmed his claim of employment for [redacted].

In order to be eligible for temporary resident status as a special agricultural worker, an alien must have engaged in qualifying agricultural employment for at least 90 man-days during the twelve-month period ending May 1, 1986, and must be otherwise admissible under section 210(c) of the Act and not ineligible under 8 C.F.R. 210.3(d). 8 C.F.R. 210.3(a). An applicant has the burden of proving the above by a preponderance of the evidence. 8 C.F.R. 210.3(b).

On the Form I-700 application, the applicant claimed to have performed 92 man-days clipping garlic and onions for Rosco Scott Farm Labor Contractors at Christopher Ranch in Santa Clara, California from May 20, 1985 to August 30, 1985. In support of the claim, the applicant submitted a Form I-705 affidavit and a separate employment statement, both of which are signed by [redacted] who is designated as foreman for Rosco Scott Farm Labor Contractors.

In attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. Specifically, [redacted] Personnel Manager for Christopher Ranch provided the Service with a letter which states that Scotts Cotton Pickers were contracted by Christopher Ranch for only *20 days* during 1985.

On October 28, 1991, the applicant was advised in writing of the adverse information obtained by the Service, and of the Service's intent to deny the application. The applicant was granted thirty days to respond. However, the record contains no response from the applicant to the Service's notice.

The director concluded that the applicant had not overcome the derogatory evidence, and denied the application on December 18, 1991.

On appeal, the applicant reaffirmed his claim of employment harvesting onions and garlic for [redacted] and indicated that he would be providing further documentation in support of his claim. As of this date, however, no additional evidence has been submitted into the record by the applicant.

Generally, the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility, and amenability to verification. 8 C.F.R. § 210.3(b)(1). Evidence submitted by an applicant will have its sufficiency judged according to its probative value and credibility. 8 C.F.R. § 210.3(b)(2). Personal testimony by an applicant which is not corroborated, in whole or in part, by other credible evidence (including testimony by persons other than the applicant) will not serve to meet an applicant's burden of proof. 8 C.F.R. § 210.3(b)(3).

There is no mandatory type of documentation required with respect to the applicant's burden of proof; however, the documentation must be credible. All documents submitted must have an appearance of reliability, i.e., if the documents appear to have been forged, or otherwise deceitfully created or obtained, the documents are not credible. *United Farm Workers (AFL-CIO) v. INS,* Civil No. S-87-1064-JFM (E.D. Cal.).

The applicant's claim to have performed *92 days* of qualifying agricultural employment for Rosco Scott Farm Labor Contractors at Christopher Ranch from May 20, 1985 to August 30, 1985 is directly contradicted by the derogatory information obtained by the Service, which indicated that Scotts Cotton Pickers were contracted by Christopher Ranch for only *20 days* during 1985. The applicant has failed to rebut or overcome such derogatory evidence. Therefore, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

The applicant has failed to establish credibly the performance of at least 90 man-days of qualifying agricultural employment during the twelve-month statutory period ending May 1, 1986. Consequently, the applicant is ineligible for adjustment to temporary resident status as a special agricultural worker.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.